

AMENDED IN ASSEMBLY MARCH 23, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 703

Introduced by Assembly Member Bloom

February 25, 2015

An act to ~~amend Section 634.6 of, and to add Section 634.3 to, add Section 634.3 to~~ the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 703, as amended, Bloom. Juveniles: attorney qualifications.

Existing law subjects any person under 18 years of age who commits a crime to the jurisdiction of the juvenile court, which may adjudge such person to be a ward of the court, except as specified. Under existing law, a minor has the right to counsel of his or her own choice in proceedings to declare the minor a ward of the court. If the minor and his or her parents are indigent, the minor is entitled to appointed counsel.

This bill would require *counsel appointed in youth proceedings to, among other things, have sufficient contact with the minor to establish and maintain a meaningful and professional attorney-client relationship, including in the postdispositional phase of the proceedings. The bill would also require* the Judicial Council, by July 1, 2016, to adopt rules of court regarding, among other things, the establishment of minimum hours of training and ~~education~~ *education, or sufficient recent experience in delinquency proceedings in which the attorney has demonstrated competence*, necessary to be appointed as counsel in delinquency proceedings, and the establishment of required training areas and encouraging public defender offices and other agencies that represent minors in delinquency cases to provide juvenile delinquency training.

~~Existing law requires counsel, upon entering an appearance on behalf of a minor, to continue to represent that minor unless relieved by the court.~~

~~This bill would specify that representation to include every stage in juvenile proceedings, including postdisposition.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) As representing minors in the juvenile justice system has
4 become much more complex, and the potential consequences of
5 juvenile involvement in the juvenile justice system have become
6 more severe than when the Arnold-Kennick Juvenile Court Law
7 (Chapter 2 (commencing with Section 200) of Part 1 of Division
8 2 of the Welfare and Institutions Code) was enacted, delinquency
9 attorneys need specialized skills, education, and training to ensure
10 competent representation of minors in juvenile delinquency court.

11 (b) Competent legal representation by defense attorneys is
12 needed to preserve the integrity of the juvenile justice system,
13 prevent wrongful judgments, reduce unnecessary incarceration,
14 and help ensure that minors receive the care, treatment, and
15 guidance upon which the juvenile justice system is premised.

16 (c) It is essential that California's juvenile delinquency defense
17 attorneys have the appropriate knowledge and skills needed to
18 meet the demands of this increasingly complex area of legal
19 practice. Advances in brain research demonstrate that children and
20 adolescents do not possess the same cognitive, emotional,
21 decisionmaking, and behavioral capacities as adults. Counsel must
22 ensure that these differences are appropriately recognized in the
23 attorney-client relationship and defense of the case.

24 SEC. 2. Section 634.3 is added to the Welfare and Institutions
25 Code, to read:

26 634.3. (a) Counsel appointed pursuant to Section 634 to
27 represent youth in proceedings under Sections 601 and 602 shall
28 do all of the following:

1 (1) Provide effective, competent, diligent, and conscientious
2 advocacy and make rational and informed decisions founded on
3 adequate investigation and preparation.

4 (2) ~~Represent the expressed interests of the minor,~~ *Provide legal*
5 *representation based on the client's expressed interests,* and
6 maintain a confidential relationship with the minor.

7 (3) Confer with the minor prior to each court hearing, and have
8 sufficient contact with the minor to establish and maintain a
9 meaningful and professional attorney-client—~~relationship.~~
10 *relationship, including in the postdispositional phase.*

11 (4) When appropriate, delinquency attorneys should consult
12 with social workers, mental health professionals, educators, and
13 other experts reasonably necessary for the preparation of the
14 minor's case, and, when appropriate, seek appointment of those
15 experts pursuant to Sections 730 and 952 of the Evidence Code.

16 (5) *Nothing in this subdivision shall be construed to modify the*
17 *role of counsel pursuant to subdivision (b) of Section 657.*

18 (b) By July 1, 2016, the Judicial Council, in consultation and
19 collaboration with delinquency defense attorneys, judges, and other
20 justice partners including child development experts, shall adopt
21 rules of court to do all of the following:

22 (1) Establish minimum hours of training and—~~education~~
23 *education, or sufficient recent experience in delinquency*
24 *proceedings in which the attorney has demonstrated competence,*
25 necessary in order to be appointed as counsel in delinquency
26 proceedings. Training hours that the State Bar has approved for
27 Minimum Continuing Legal Education (MCLE) credit shall be
28 counted toward the MCLE hours required of all attorneys by the
29 State Bar.

30 (2) Establish required training areas that *may* include, but are
31 not limited to, ~~developments in an overview of juvenile delinquency~~
32 ~~law, motion practice,~~ *law and procedure,* child and adolescent
33 development, special education, competence and mental health
34 issues, ~~child abuse and neglect,~~ counsel's ethical duties, advocacy
35 in the postdispositional phase, appellate issues, direct and collateral
36 consequences of court involvement for a minor, and securing
37 effective rehabilitative resources.

38 (3) Encourage public defender offices and agencies that provide
39 representation in proceedings under Sections 601 and 602 to

1 provide training on juvenile delinquency issues that the State Bar
2 has approved for MCLE credit.

3 (4) Provide that experts whose appointment is requested by
4 delinquency attorneys, and social workers employed to work with
5 the delinquency attorney, are agents of the attorneys and require
6 those experts and social workers to adhere to the attorney-client
7 privilege under Article 3 (commencing with Section 950) of
8 Chapter 4 of Division 8 of the Evidence Code.

9 (5) Provide that attorneys practicing in juvenile delinquency
10 courts shall be solely responsible for compliance with the training
11 and education requirements adopted pursuant to this section.

12 ~~SEC. 3.—Section 634.6 of the Welfare and Institutions Code is~~
13 ~~amended to read:~~

14 ~~634.6.—Any counsel upon entering an appearance on behalf of~~
15 ~~a minor shall continue to represent that minor at every stage in~~
16 ~~juvenile proceedings, including postdisposition, unless relieved~~
17 ~~by the court upon the substitution of other counsel or for cause.~~
18 ~~Indigent juveniles should be represented by the public defender~~
19 ~~whenever possible.~~